

**REMARKS**

The Office Action mailed September 10, 2007 has been reviewed and the comments of the Patent and Trademark Office have been considered. Claims 1- 14 were pending in the application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, are presented, with an appropriate defined status identifier.

**Prior Art Rejections:**

In the Office Action, claims 1, 3, 5, 7, 9-11 and 13 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Japanese Patent Application Publication 2001-177624 to Fujii Nobuyuki (hereinafter “Fujii”) in view of U.S. Patent Application Publication 2002/0019851 to Pollack et al. (hereinafter “Pollack”). Claims 2, 4, 6, 8, 12 and 14 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Fujii and Pollack in view of Official Notice. Applicant respectfully traverses these rejections for at least the following reasons.

The instant invention deals with a memory information backup method and system for cell phones. Specifically, independent claim 1 recites a backup system wherein “said terminal comprises instruction mail creating means for creating, as backup instruction mail, electronic mail having information for instructing to perform backup stored in a header portion.” Thus, a terminal sends a backup instruction mail message to a phone having information in the header portion of the message that instructs the phone to perform backup operations. Independent claims 9 and 10 recite an analogous feature.

Claims 1, 3, 4, 5, 7, 9-11 and 13 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Fujii in view of Pollack. Fujii fails to teach several features of the invention as claimed. First, Fujii fails to teach a terminal that comprises “instruction mail creating means” as featured in the invention as claimed. The Examiner cites the portable terminal of Fujii as allegedly teaching the terminal of the invention as claimed. However, the portable terminal of Fujii is the equivalent of a cell phone. Fujii explicitly asserts the desire to “back up a phone directory in a portable terminal.” (Abstract, Problem to be Solved, lines 1-2). The portable terminal of Fujii is in no way equivalent to the terminal of the invention as

claimed. Rather, the data center 3 of Fujii would correspond to the terminal. Sending a message from the portable terminal to the data center in Fujii is equivalent to sending a message from the cell phone to the terminal in the invention as claimed. There is no teaching or indication that the data center of Fujii contains any type of “instruction mail creating means” that creates, as backup instruction mail, electronic mail that is sent to the portable terminal. The only indication of messages being sent from the data center of Fujii to the portable terminal is in response to the terminal’s desire to obtain the phone directory that had been backed up in the data center. (Abstract). In this situation, there is still no teaching or indication in Fujii of backup instruction mail that is created in the data center. Thus, Fujii fails to teach this feature of the invention as claimed. Further, as admitted in the outstanding Office Action, Fujii “does not explicitly show backup instructions being in the header portion of the email.” Thus, Fujii fails to teach or suggest a backup system wherein “said terminal comprises instruction mail creating means for creating, as backup instruction mail, electronic mail having information for instructing to perform backup stored in a header portion.”

Pollack fails to make up for the deficiencies of Fujii as noted. Pollack does not teach or suggest a backup system wherein “said terminal comprises instruction mail creating means for creating, as backup instruction mail, electronic mail having information for instructing to perform backup stored in a header portion.” Rather, Pollack teaches that a mobile device can send emails with authentication, file identification, and commands of how to deal with the identified file. These emails are sent from the mobile device, such as a wireless palm device, to a server that then executes the command. (See Examples given from paragraph 0073 – 104. Further, see also Figure 9 and paragraphs 0046 – 0062.) This is the same approach utilized by Fujii, in that the mobile device sends instruction mail to the server. There is no teaching or indication in Pollack that the server would send instruction mail to the mobile device, let alone send instruction mail for creating, as backup instruction mail, electronic mail with information to instruct to perform backup, stored in the header portion of the electronic mail. Thus, Pollack fails to disclose the ability to create and send instruction mail from a terminal to a cell phone that stores instructions pertaining to the contents of the electronic mail in the header of the electronic mail. Thus, even if the teachings of Pollack were combined with those of Fujii, the features of the instant invention would be lacking.

As shown, neither Fujii nor Pollack teaches or discloses all of the features of the independent claim, specifically failing to teach a backup system wherein “said terminal comprises instruction mail creating means for creating, as backup instruction mail, electronic mail having information for instructing to perform backup stored in a header portion.” Thus, Fujii and Pollack, either alone or in any combination thereof, would also fail to teach all of the limitations of the independent claims. If this rejection is maintained, the examiner is respectfully requested to point out where this feature are disclosed in either Fujii or Pollack.

The dependent claims are also patentable for at least the same reasons as the independent claims on which they ultimately depend. In addition, they recite additional patentable features when considered as a whole. As mentioned above, Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as presented is respectfully requested.

Claims 2, 6, 8, 12 and 14 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Fujii in view of Pollack. The Examiner takes Official Notice that notification messages and other features of the invention as claimed in the aforementioned dependent claims are obvious modifications that would be readily recognized by a person of ordinary skill in the art. Even if this Official Notice were to be considered, it would not make up for the deficiencies of Fujii and Pollack as shown above. The combination of Official Notice with Fujii and Pollack would not teach a backup system wherein “said terminal comprises instruction mail creating means for creating, as backup instruction mail, electronic mail having information for instructing to perform backup stored in a header portion.” Thus, this rejection is respectfully traversed.

Claim 4 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Fujii in view of Pollack. The Examiner takes Official Notice that backup systems with backup schedule tables are obvious modifications that would be readily recognized by a person of ordinary skill in the art. Even if this Official Notice were to be considered, it would not make up for the deficiencies of Fujii and Pollack as shown above. The combination of Official Notice with Fujii and Pollack would not teach a backup system wherein “said terminal comprises instruction mail creating means for creating, as backup instruction mail, electronic mail

having information for instructing to perform backup stored in a header portion.” Thus, this rejection is respectfully traversed.

**Conclusion:**

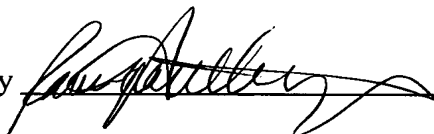
In view of the foregoing remarks, applicant believes that the application is now in condition for allowance. An indication of the same is respectfully requested.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date December 4, 2007

FOLEY & LARDNER LLP  
Customer Number: 22428  
Telephone: (202) 945-6059  
Facsimile: (202) 672-5399

By 

George C. Beck  
Attorney for Applicant  
Registration No. 38,072

Ramya Ananthanarayanan  
Agent for Applicant  
Registration No. 59,597